OGC 78-4431

7 July 1978

MEMORANDUM FOR: Director of Central Intelligence

FROM: Anthony A. Lapham
General Counsel

SUBJECT: Memorandum Opinion in the Snepp Case

1. Action Requested: None. For your information I am attaching a copy of the Memorandum Opinion of Judge Lewis in the Snepp case. As you will see it is a clean sweep. Judge Lewis quoted and relied on your testimony so far as concerns the damaging effects of Snepp's failure to comply with the pre-publication review obligations of the secrecy agreement (see page 7 of the Opinion). As for the remedy, Judge Lewis required an accounting by Snepp of all proceeds, etc., derived from the book, and established a constructive trust with respect to those proceeds. It is not entirely clear to me what the trust is intended to accomplish, but I think what it means is that all proceeds already received by Snepp are owed to the United States and any that may be received by Snepp in the future will likewise belong to the United States. In addition, any further violations of the secrecy agreement are enjoined, meaning that Snepp will be in contempt if he commits another violation.

2. The judgment will become final and appealable as soon as an actual order implementing the decision is submitted by the Department of Justice attorneys and approved by Judge Lewis.

[redacted]ATINTL

Anthony A. Lapham

Attachment

cc: DDCI
DDO
DDA
PCS/PGL

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA

ALEXANDRIA DIVISION

UNITED STATES OF AMERICA,	:	
Plaintiff,	:	CIVIL ACTION NO.
v.	:	
FRANK W. SNEPP, III,	:	78-92-A
Defendant.	:	

MEMORANDUM OPINION AND ORDER

In this case the United States does not seek to enjoin the publication of a book[1] but rather to redress through more commonly utilized remedies the defendant's breach of his contractual and fiduciary duties caused by his failure to submit to the CIA for its initial review all manuscripts which contain information gained by him as a result of his CIA employment.

The defendant admits he did not submit the said manuscripts to the Agency for pre-publication review — he says he was not under any legal obligations to so do because the secrecy agreement in question violates the First and Fifth Amendments to the United States Constitution.

He claims the United States lacks standing to bring this suit because it does not allege any harm to the national security or other cognizable interest of the United States.

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1. The book "Decent Interval" was published prior to the filing of this suit.

He further claims the termination secrecy agreement he signed when he resigned from the CIA relieved him of his obligation to submit the said manuscripts for pre-publication review — and that even if the September 16, 1968 secrecy agreement were enforceable, CIA breached the agreement by failing to provide him an opportunity for a hearing on the evacuation of Vietnam.

He also claims the CIA is estopped from enforcing the secrecy agreement against him because it has permitted other employees to make unauthorized disclosures of information concerning the Agency, including information concerning intelligence sources and methods.

He claims the CIA fraudulently induced him to accept employment with the Agency and to sign the secrecy agreement.

He also claims duress — lack of consideration — mutuality of obligations — perpetuity — and that it is an unreasonable contract of adhesion and an unconscionable agreement.

He says he did not and does not owe any fiduciary duty to the CIA and that the Government has failed to mitigate its purported damages.

He prays that the suit be dismissed with prejudice and in the event the action goes to trial, he demands a trial by jury.

The Government's motion for an immediate judgment on the pleadings was denied pending completion of the record by both parties via discovery.

After completion of extensive discovery, the

defendant filed a motion for summary judgment — that motion was heard and denied and the case was set for a formal pretrial hearing to identify what factual issues, if any, remained to be heard by the Court and/or the jury on June 20.

Based on the record thus made, the Court concluded that all the material facts were undisputed — whereupon, the jury panel was excused and the matter was heard and determined by the Court on the stipulations and the live and documentary evidence tendered by the parties in support of their respective positions.

The parties stipulated:

1. The Central Intelligence Agency, an agency of the United States, was established by the National Security Act of 1947. Under the provisions of the Act and implementing provisions of Executive Order 12036 and predecessor Executive Orders, the Agency is authorized to collect intelligence information relating to National Security and to correlate, evaluate, and disseminate within the United States Government, intelligence relating to National Security.

2. The position of the Director of Central Intelligence was established by the National Security Act of 1947. The Director serves as head of the Agency. Section 102(d)(3) of the Act, Title 50, United States Code, §403(d)(3), charges the Director with responsibility for "protecting intelligence sources and methods from unauthorized disclosure."

3. On September 16, 1968, prior to the commencement of his official duties as an employee of the Central Intelligence Agency, defendant Frank W. Snepp III signed a secrecy agreement with the Agency. A true and correct copy of that agreement is attached to the complaint as Exhibit A.

4. Defendant Frank W. Snepp III was employed by the Central Intelligence Agency from September 16, 1968, until he resigned, effective January 23, 1976. During the period of his Agency employment, defendant Snepp served two tours of duty in South Vietnam. The dates on his tours of duty were from June 2, 1969 to June 21, 1971 and from October 4, 1972 to April 29, 1975.

5. During the course of his employment by the Central Intelligence Agency, defendant Frank W. Snepp III was assigned to various positions of trust, including two tours of duty in South Vietnam during the periods June 2, 1969 to June 21, 1971 and from October 4, 1972 to April 29, 1975, and was granted frequent access to classified information, including information regarding intelligence sources and methods.

6. Defendant Frank W. Snepp III submitted to Random House, Inc., for publication a non-fiction book entitled "Decent Interval". The book concerns the activities of the Central Intelligence Agency in South Vietnam and elsewhere, and it is based in large part on information obtained by defendant Snepp in the course of his Agency employment, including his tours of duty in South Vietnam during the periods June 2, 1969 to June 21, 1971 and from October 4, 1972 to April 29, 1975.

7. In November, 1977, Random House, Inc. published and placed in the stream of commerce for ultimate retail sale the non-fiction book by the defendant Frank W. Snepp III, entitled "Decent Interval".

Snepp admits in his answer and in his deposition that he did not submit his manuscripts relating to his book, "Decent Interval", to the CIA for pre-publication review.

The Court finds from the evidence thus received that Frank W. Snepp III was fully briefed and advised before entering on duty with the CIA that he was undertaking a position of trust in that Agency of the Government responsible to the President and the National Security Counsel for intelligence relating to the security of the United States of America;

That he understood that in the course of his employment he would acquire information about the CIA and its activities and about intelligence acquired or provided by the Agency;

That he knew that employment by the Government was a privilege — not a right;

That he had to sign a secrecy agreement upon entering on duty with the CIA;

That he read and fully understood the duties and responsibilities set forth in the said secrecy agreement; and

That he signed the said secrecy agreement on September 16, 1968 without any mental reservations or purpose of evasion.

Mr. Snepp knew — he was told by Admiral Turner, Associate Counsel and other CIA officials that he could not release his manuscripts on the evacuation of Vietnam for publication without prior Agency approval.

He knew this Court had enjoined Victor L. Marchetti, a former employee of the CIA, from publishing his proposed book in violation of his secrecy agreement.

Although he assured, or at least lead both Admiral Turner and [redacted] STATINTL of the CIA legal staff to believe that he would submit his manuscripts for Agency re-

view before publication — the Court finds he had no intention of so doing because he was then making secret arrangements with Random House, Inc. to publish the book — all negotiations were conducted on park benches, in restaurants and/or in the public library. Snepp admits he did everything he could to keep the CIA from knowing about it prior to publication.

The Court finds from this evidence that Frank W. Snepp III willfully, deliberately and surreptitiously breached his position of trust with the CIA and the secrecy agreement dated September 16, 1968 by causing Random House, Inc. to publish "Decent Interval" (an insider's [his] account of Saigon's indecent end) without specific prior approval by the Central Intelligence Agency.

The Court further finds Mr. Snepp published the book "Decent Interval" for personal financial gain — he admits he has already received some sixty thousand dollars in advance payments and the contract with Random House, Inc. calls for royalties and other potential profits.

The undisputed evidence discloses that the CIA collects intelligence by two generic ways — one is through human sources who tell us information — we call that "sources" — the other is through technical means of collecting data, where a machine does it for you in one way or another — we call those "methods" of collecting intelligence.

Most of CIA's sources and methods are classified — if you disclose sources you are subjecting them to possible death, possible loss of position, possible loss of job — if you disclose your methods, you are making available to others the development of counter-methods to your methods, that would in effect make them useless.

The National Security Act of 1947 — amended 1969 — requires the Director of the CIA to prohibit intelligence sources and methods from unauthorized disclosure.

Both Admiral Turner and Mr. Colby testified, "In order to maintain your secrets you must have some form of control over unauthorized release."

When Admiral Turner was asked if there had been any adverse effect resulting from Snepp's refusal to submit his book for pre-publication review, he replied:

> There clearly has. Over the last six to nine months, we have had a number of sources discontinue work with us. We have had more sources tell us that they are very nervous about continuing work with us. We have had very strong complaints from a number of foreign intelligence services with whom we conduct liaison, who have questioned whether they should continue exchanging information with us, for fear it will not remain secret. I cannot estimate to you how many potential sources or liaison arrangments have never germinated because people were unwilling to enter into business with us. . . .

Admiral Turner did not attribute all of this to Mr. Snepp — he said:

> [H]is is one, and a very serious one, of a number of incidents that have diminished this world-wide confidence in our ability.
>
> His, in particular, because it has flaunted the basic system of control that we have. If he is able to get away with this, it will appear to all those other people that we have no control, we have no way of enforcing the guarantee which we attempt to give them when we go to work with them.

Mr. Colby, a former Director of the CIA, was called by the defendant — he said substantially the same thing.

The Court finds that the publication of Snepp's book, "Decent Interval", absent CIA pre-publication review has caused the United States irreparable harm and loss. It has impaired CIA's ability to gather and protect intelligence relating to the security of the United States of America.

Snepp's attempts to justify his failure to submit his book to the CIA for pre-publication review on numerous grounds — all of which lack sufficient evidentiary and/or legal support.

He misreads Marchetti[2] — as supporting his First and Fifth Amendment claims — that case does not invalidate CIA's secrecy agreement.

Chief Judge Haynsworth, speaking for the Fourth Circuit Court of Appeals, held:

> [T]hat the secrecy agreement executed by Marchetti at the commencement of his employment was not in derogation of Marchetti's constitutional rights. Its provision for submission of material to the CIA for approval prior to publication is enforceable, provided the CIA acts promptly upon such submissions and withholds approval of publication only of information which is classified and which has not been placed in the public domain by prior disclosure.

Snepp's 1968 secrecy agreement and Marchetti's secrecy agreement are sufficiently similar to warrant the same holding.

Snepp's secrecy agreements are clear and unambiguous. His 1976 secrecy termination agreement is not limited to classified information, as he would have you read it — it reads classified information or any information concerning intelligence of CIA that has not been made public by CIA.

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2. United States v. Marchetti, 466 F.2d 1309 (1972).

Both secrecy agreements require submission of all such material for CIA pre-publication review.

Snepp's termination briefing indicates he was so told.

Further, Snepp is not the judge of what portions, if any, of CIA's intelligence may be made public.

On the question of whether the CIA breached ¶6 of the 1968 secrecy agreement — the defendant says no one in the CIA would give him a hearing on his complaint in re the evacuation of Vietnam. The Government concedes the defendant was not given the requested hearing. He admits, however, he did not present this grievance or complaint to the Inspector-General as provided for in the said paragraph.

¶6 of the 1968 secrecy agreement is clear and unambiguous. That paragraph pertains to the carrying of grievances or complaints outside the Agency — had the CIA breached ¶6 — (and the Court did not so find) — that would not release the defendant from fully complying with ¶8 of the secrecy agreement.

Snepp was given every opportunity to prove his claims of fraud and duress — he withdrew his claim of duress before trial and said his only evidence of fraud was that a briefing officer had told him he could use his discretion in determining what should or should not be released to the public — he claims he would not have signed the secrecy agreement otherwise. He could neither name nor identify the briefing officer prior to the trial even though he had seen and talked to all three of them. He did name one, however, when the three were required to stand in the courtroom. The one named had no recollection

of ever seeing or talking to Snepp in 1968.

Fraud, in the procurement of a contract, requires far more convincing evidence.

The secrecy agreement of 1968 is clear and unambiguous — oral testimony is inadmissible to vary the unambiguous terms of a written agreement. See Rock-Ola Manufacturing Corp. v. Wertz, 282 F.2d 208 (4th Cir. 1960).

Further, a CIA briefing officer has no authority to change or alter the terms of the CIA secrecy agreement.

Snepp's claim that the United States lacks standing to bring this suit — lacks merit.

> Jurisdiction arises from the presence of the United States as a party. 28 U.S.C. § 1345. "The government can sue even if there is no specific authorization. In such cases, however, it must have some interest to be vindicated sufficient to give it standing." C. A. Wright, Federal Courts 68 (2d ed. 1970), ch. 3 § 22. Standing arises from the government's interest in protecting the national security.[3]

United States v. Marchetti, supra, at 1313. See also, id. n. 3.

The defendant's other defenses have been fully heard and denied for the reasons then stated — there is no need to repeat them again.

We now turn to the question of damages.

Counsel for Snepp says there is insufficient evidence in this case to support any award beyond nominal damages — we disagree — nominal damages in a case like this would be nothing more than a license to continue doing that which the law forbids.

This action involves a substantial wrong to the United States and to the public's interest in the effective functioning of its Government.

Snepp's willful refusal to comply with his pre-publication review obligations to the CIA demonstrates, unless redressed, the potential vulnerability of all information provided to the CIA on a confidential basis. It is elementary that the successful conduct of international diplomacy and the maintenance of an effective national defense require both confidentiality and secrecy. Other nations can hardly deal with this nation in an atmosphere of mutual trust unless they can be assured that their confidence will be kept.

Although such injury is not quantifiable with any reasonable degree of certainty, nominal damages are grossly inadequate as redress for Mr. Snepp's willful breach of trust.

As was said by Chief Judge Haynsworth in Marchetti, supra:

> Gathering intelligence information and the other activities of the Agency, including clandestine affairs against other nations, are all within the President's constitutional responsibility for the security of the Nation as the Chief Executive and as Commander in Chief of our Armed Forces. Const., art. II, § 2. Citizens have the right to criticize the conduct of our foreign affairs, but the Government also has the right and the duty to strive for internal secrecy about the conduct of governmental affairs in areas in which disclosure may reasonably be thought to be inconsistent with the national interest.
>
> * * *
>
> Although the First Amendment protects criticism of the government, nothing in the Constitution requires the government to divulge information:
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> * * *

> Congress has imposed on the Director of Central Intelligence the responsibility for protecting intelligence sources and methods. 50 U.S.C. § 403(d)(3). In attempting to comply with this duty, the Agency requires its employees as a condition of employment to sign a secrecy agreement, and such agreements are entirely appropriate to a program in implementation of the congressional direction of secrecy. Marchetti, of course, could have refused to sign, but then he would not have been employed, and he would not have been given access to the classified information he may now want to broadcast.
>
> Confidentiality inheres in the situation and the relationship of the parties. Since information highly sensitive to the conduct of foreign affairs and the national defense was involved, the law would probably imply a secrecy agreement had there been no formally expressed agreement, but it certainly lends a high degree of reasonableness to the contract in its protection of classified information from unauthorized disclosure.
>
> Moreover, the Government's need for secrecy in this area lends justification to a system of prior restraint against disclosure by employees and former employees of classified information obtained during the course of employment. One may speculate that ordinary criminal sanctions might suffice to prevent unauthorized disclosure of such information, but the risk of harm from disclosure is so great and maintenance of the confidentiality of the information so necessary that greater and more positive assurance is warranted. Some prior restraints in some circumstances are approvable of course. See Freedman v. Maryland, 380 U.S. 51, 85 S. Ct. 734, 13 L.Ed. 2d 649.

Although Snepp retains the right to speak and write about the CIA, and to criticize it as any other citizen may — he may not publish any information or material relating to the CIA, its activities or intelligence activities generally, obtained during the course of his employment, either during or after the term of his employment, without specific prior approval by the Agency.

The CIA cannot protect its intelligence sources and methods if its agents are allowed to determine what intelligence ought to be made public.

One who breaches his trust and secrecy agreements with the agency of the United States charged with the responsibility for protecting intelligence sources and methods ought not to be permitted to retain his ill-gotten gains.

Anything less will not suffice to prevent unauthorized disclosure of such information.

Courts of equity frequently go much further to give relief in furtherance of the public interest than they are accustomed to go when only private interests are at stake.

Therefore the Court will exercise its equity powers and impose a constructive trust over and require an accounting of any and all revenue, gains, profits, royalties and other advantages derived by the defendant from the sale, serialization, republication rights in any form, movie rights or other distribution for profit of the work entitled "Decent Interval".

In addition, the defendant will be enjoined from any further violation of his secrecy agreement by requiring him to submit to the Central Intelligence Agency for pre-publication review any manuscript which the defendant authors which concerns the Central Intelligence Agency, its activities or intelligence activities generally which the defendant gained during the course of or as a result of his employment with the Agency.

And It Is So Ordered.

Counsel for the Government should forthwith prepare an appropriate judgment and injunction in accordance

with this Memorandum Opinion and Order, submit the same to counsel for the defendant for approval as to form, and then to the Court for entry.

The Clerk will send a copy of this Memorandum Opinion and Order to all counsel of record.

July 7, 1978.

United States Senior District Judge

A True Copy, Teste:
Ed Taylor Powell, Jr., Clerk
By [illegible]
Deputy Clerk

26 June 1978

MEMORANDUM FOR: Deputy Director for Operations

FROM : [redacted] STATINTL

SUBJECT : Snepp Case

1. In view of the significance of the Snepp case in terms of the Agency's ability to protect itself against unauthorized disclosure, and the less than complete or factual reporting about the trial in the press, you may be interested in the attached account of the closing arguments in the court session on 21 June 1978.

2. The attached is based on my notes. While it may contain inaccuracies and fall short of being fully reflective of all that transpired, I hope it conveys a reasonably accurate account of the proceedings.

[redacted] STATINTL

cc: ADDO
DDA
Division and Staff Chiefs

SUMMARY OF CLOSING ARGUMENTS IN TRIAL PROCEEDINGS, U.S. GOVERNMENT AGAINST FRANK SNEPP, 21 JUNE 1978

Presentation of Government's summing up:

1. Snepp was employed by CIA.

2. Snepp signed secrecy agreement.

3. Secrecy agreement was prerequisite to hiring.

4. Director of Security testified that Snepp could not have been hired without signing secrecy agreement.

5. After signing secrecy agreement, Snepp was employed in position of trust.

6. While still an employee of CIA, Snepp contacted Random House and said he would write book about CIA.

7. The book was written.

8. No steps were taken by Snepp to clear the book in accordance with provisions of secrecy agreement.

9. CIA cannot function without protection of confidentiality of intelligence sources and methods.

10. The individual cannot be the judge of what is classified, what he can or cannot reveal.

11. Snepp openly flaunted his failure to abide by provisions of secrecy agreement.

12. Snepp's story that he did not understand provisions of secrecy agreement, or his version of circumstances under which he signed, cannot be accepted. Snepp is not naive country boy.

13. Colby, as defense witness, testified to necessity of secrecy agreement and said that with more than quarter of century in intelligence, and highest position in CIA, he would not assume that he could determine what was classified. Snepp's obligation cannot be less than Colby's.

If Colby says he cannot judge what is classified against background of his own experience, what qualifies Snepp to presume to do so?

14. Consistent contradiction between statements of Snepp and those of witnesses, including all witnesses called by the Defense.

15. Evidence shows Snepp conspired with Random House while assuring Agency that he would not publish without Agency approval -- exhibits cited to this effect.

16. Supreme Court has held that no employee of government can alter the terms of government employment.

17. Contrary to his own testimony, Snepp at no time submitted formal complaint or grievance. Even had he done so, and regardless of whatever happened in Vietnam or any other grievance, this would not relieve Snepp of obligations under secrecy agreement.

18. In sum, Snepp had an obligation. He did not comply with it. Fourth Circuit Court of Appeals settled question of validity of secrecy agreement. The defendant profited from breach of fiduciary duties. Government asks for seizure of ill-gotten gains because of breach of trust and damage, and that Snepp be enjoined from further breaches and disclosures.

Presentations by Defense:

1. It is clear that case will go to Appeals Court.

2. Snepp never agreed with Admiral Turner and Deputy General Counsel [redacted] with respect to his own obligations. STATINTL

3. CIA knew that Snepp was writing book but did not attempt to enjoin him.

Judge: What has this to do with case? Do not introduce red herring.

4. Attack on Snepp's integrity not justified.

Judge: That is not the way I read the record.

5. Snepp did not agree that he had post-resignation obligations. Since he could not get redress of grievances within Agency, he had no other recourse but to publish.

Judge: It is clear that Snepp did not agree with anybody. Whether he had or did not have grievances is not relevant. The Defense argument is nebulous. Even assuming that Government -- that is the CIA -- did not give Snepp all his rights, on what legal basis does that exempt him from fiduciary obligation?

6. Contract violation is valid defense. CIA had violated contract. Jury should have decided whether breach was material enough to release Snepp from his obligation. In any case, the termination secrecy agreement relieved him of his entrance secrecy agreement. Defense admits that classified information should be protected. Snepp did not reveal classified information. The DCI and the judge have been arguing policy, not law. If Turner feels that CIA or ex-CIA employees should be prohibited from publishing anything, then the matter should be taken to Congress and law should be passed, which may or may not be constitutional. In any case, claim of damages against Snepp too tenuous, because damage to CIA cannot be related specifically to Snepp.

Judge: Does not have to be related specifically. If damage was caused, and both Turner and Colby so testified, and if Snepp was one cause for the damage, he is liable. He does not have to be the sole cause.

7. Extent of damage cannot be proven because Court would not permit introduction of evidence relating to particular exposure.

Judge: Quite right. There has been too much exposure of CIA and this Court will not become another forum for it.

8. Secrecy agreement violates the First Amendment. The writer has inherent right to publish what he considers unclassified. First Amendment prohibits prior restraint.

Judge: It is contention of Defense that Snepp is to be sole judge of what he can publish? Is secrecy agreement as precondition to employment unconstitutional?

9. Government is enforcing secrecy agreement on selective basis. Contracts cannot be enforced on discriminatory basis. CIA went after Snepp only because they were mad at him, because they don't like him. Government not consistent in enforcement. However, allowing that Government does have case against Snepp, it is simply breach of contract in which case Government entitled to nominal damage. Government unfair in wanting to seize proceeds from book. To date Snepp received $22,000 advance (of which $2,000 paid to agent) and $20,000 for paperback rights. He is due approximately $68,000 from Random House and another $20,000 for paperback. In three years he will have made less from book than he would have made with CIA. A fine of $1,000 or even $5,000 would be reasonable. To try to seize all earnings inhuman and unjust.

Judge: Redress for breach of trust has as standard remedy the seizure of ill-gotten gains.

Defense: Only if the information published was classified, but the Government did not prove this. If Snepp was in position of trust, so are many thousands of others. CIA is no different from other Government agencies. Snepp is no different from former Government officials such as Stimson, Acheson and Kennan who wrote of their experiences. They did no wrong and neither did Snepp.

Govt: Everything Snepp wrote was based on his duties with CIA, and CIA had a right of review.

Judge: Many people expected him to hand down judgment today, but cannot do so because not able to read all depositions and exhibits introduced yesterday (20 June).

[then some philosophizing about judicial process, judges are human, all make errors, reason for appeals system, etc.]

Government asked for summary judgement on this case in March. He did not agree because he felt Defense should have every opportunity to strengthen their case through discovery and depositions. After depositions taken, both sides agreed case was matter of law, not determination of facts. Therefore, no jury. Had the Defense argued specifically fraud and duress in obtaining secrecy agreement from Snepp, that would have required jury trial. But Federal Court procedures require specificity in allegation of fraud and this the Defense never offered. As a matter of law, there was no fraud.

Alleged grievances do not relieve obligation from fiduciary duties. There was no question but that Snepp did what he did. Thus there was no factual dispute to submit to the jury. Clearly, the press did not understand the meaning of evidence. He went five times as far as necessary to get defendent's position on record. The law does not permit the dilution of written agreements by less solemn means. The case is important because it determines whether CIA can restrict bearers of trust and sensitivity. The Circuit Court of Appeals has already held that secrecy agreements are binding. There is no constitutional right to be employed by the CIA. The Director and the former Director gave straightforward testimony. Common sense will tell you that foreign countries and agents will not cooperate

with CIA, will not give secrets to CIA, if those secrets cannot be protected.

The Marchetti case, decided by Judge Bryant and ruling upheld by Circuit Court of Appeals is relevant to the case at hand. Both deal with Government's ability to protect itself from unauthorized disclosure. Snepp's action more far-reaching because he denies the concept of the Government's authority.

Snepp had no right to do what he did. He was told that he had no right and he knew he had no right. That is why he negotiated and signed contract in secrecy. His own words in his own book affirm that. Snepp broke contract willfully, deliberately and surreptitiously. Why he published is not material, but no question that he did it for money. He profited from his action -- a willful, deliberate breach of contract and high public trust for money. The proceeds are ill-gotten gains.

The damage to the Government has been done. There is no way to correct that. No one can estimate the damage. A fine of 10 million dollars would not help the Government, but there no point to such a fine because Snepp does not have the money. The suggestion by Defense Counsel to award nominal damages of $1,000 or even $5,000 is ludicrous. That would amount to advertising that for such a sum you could get a license from the Federal Court to publish any secrets you want. He wants to decide what is proper remedy. It is principle of federal and common law that a man must not be allowed to profit from ill-gotten gains.

27 APR 1978

MEMORANDUM FOR: Deputy Director for Administration

FROM : [redacted] STATINTL
Secretary, Snepp Book Working Group

SUBJECT : Working Group Report on Snepp Book "Decent Interval"

As recommended by the Snepp Book Working Group and approved by the DDCI, a copy of the Working Group Report on Snepp's book "Decent Interval" is transmitted herewith for your information and retention.

[redacted] STATINTL

Attachments:
Snepp Working Group Report